



FROM: CHIEF SECRETARY
DATE: 2 March 1990

PRIME MINISTER

BROADCASTING BILL

David Waddington's minute to you of ~~22~~^{with a} February suggests amendments to the quality threshold.

2. I am content with his suggestions that the diversity requirement be expanded to include children's and religious programmes; and that the regional news required of Channel 3 licensees should be of high quality. But I have serious reservations about the practicability and desirability of the other proposals.

3. It is suggested that the ITC be explicitly allowed to award a Channel 3 licence on the basis of an exceptional quality difference. I have several difficulties with this approach. If it were adopted the ITC would be free to award all the Channel 3 franchises on the basis of quality rather than cash bid - so companies would not know whether their bid would be finally judged according to the quality of programmes offered or the cash bid. Because quality has not been defined it would be impossible to constrain the ITC's use of the power to cases where the quality difference was very large. The ITC would find it impossible to ensure the winners' promises to deliver "quality" programmes were honoured. And the companies themselves would, whatever promises were given during the auction process, have to maximise profits or face being taken over.

4. There are similar problems with the suggestion that bidders be required to produce "high quality" programmes across the whole range of main programme types. The ITC would find itself with more discretion to rule out bids for failing to cross the quality

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threshold, even though most bidders will be expecting to purchase much of their output from other Channel 3 licensees - whose identity will be unknown before the auction. And, because quality cannot be objectively defined, promises to produce high quality programmes would be unenforceable.

5. For all these reasons I believe we should keep to our original policy of setting a quality threshold with consumer protection and quantified, rather than qualitative or aspirational, requirements with the winner determined by the size of the cash bid - save in exceptional circumstances. If we develop policy in the way now proposed there is a grave danger we will end up in an indefensible muddle.

6. I am copying this minute to other members of MISC 128, Kenneth Baker, Malcolm Rifkind and Peter Brooke, and to Sir Robin Butler.



NORMAN LAMONT